

November 30, 2021

Nathan Ochsner, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Sealed
Public and unofficial staff access
to this instrument are
prohibited by court order

UNITED STATES OF AMERICA

v.

JOHN CASTELLANO
and
JACINTO ZUNIGA
Defendants.

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CRIMINAL NO. **4:21-cr-559**

FILED UNDER SEAL

INDICTMENT

THE GRAND JURY CHARGES THAT:

At all times material to this Indictment:

1. The following items are firearms and ammunition of category and nature which cannot be exported from the United States without a license or written approval from the United States Government:
 - a. Barrett .50 caliber rifles
2. It is also unlawful for a person to violate United States laws governing the outbound smuggling of any merchandise, article, or object, including firearms and ammunition. Title 18, United States Code, Section 554(a) makes it a federal crime to fraudulently or knowingly export or send from the United States, or attempt to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States; or to receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or

regulation of the United States.

3. Neither JOHN CASTELLANO OR JACINTO ZUNIGA, nor any co-conspirator identified herein has ever applied for, received, or possessed a license or written approval from the United States Government to export any firearms or ammunition.

4. The ATF Form 4473 (Firearm Transaction Record):

- a. The ATF Form 4473 (hereafter "Form 4473") is a document used and maintained by the FFL to create a written record of each firearm sale or disposition. The Form 4473 is completed in part by the FFL and in part by a firearms purchaser at the time a firearm is sold or otherwise disposed of. The Form 4473 memorializes that an FFL has taken all precautions required by the ATF and his license to make sure he does not transfer a firearm to a person who is prohibited from possessing it. Accordingly, among other things, the Form 4473 records that a firearms purchaser identified himself to the FFL with a valid identification bearing his photograph. The Form 4473 also requires that the purchaser truthfully answer a series of questions about the firearms transaction.
5. The purpose of the Form 4473 is threefold. The first is to cause FFLs and prospective firearm purchasers alike to take note of any legal impediments to the consummation of a firearms sale before deciding to proceed. The second is to acquire sufficient information about the purchaser to enable the Federal Bureau of Investigation (hereafter "FBI"), through its National Instant Background Checking System (hereafter "NICS"), to perform a criminal history check of the purchaser to verify he or she is not prohibited from possessing a firearm on account of a prior felony conviction or status as an illegal alien, among several other prohibitions. The third purpose of the ATF Form 4473 is to create a traceable record of the sale of a firearm, which permits law enforcement officers in an on-going criminal

regulation of the United States.

3. Neither JOHN CASTELLANO OR JACINTO ZUNIGA, nor any co-conspirator identified herein has ever applied for, received, or possessed a license or written approval from the United States Government to export any firearms or ammunition.

4. The ATF Form 4473 (Firearm Transaction Record):

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investigation involving a firearm as evidence to trace the firearm to its last-known owner.

COUNT ONE

(Aiding and Abetting a False Statement on an ATF 4473 Form)

On or about December 11, 2019 continuing through December 16, 2019, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

JOHN CASTELLANO
& JACINTO ZUNIGA,

the defendants herein, aiding and abetting each other and those known and unknown to the Grand Jury, knowingly made a false statement and representation to an employee of Texas Tactical Gear, a Federal Firearms Licensee which was licensed under the provisions of Chapter 44 of Title 18, United States Code, with respect to information required by the provisions of Chapter 44 of Title 18 of the United States Code to be kept in the records of the Federal Firearms Licensee Zeroed In Armory, in that John Castellano executed a Bureau of Alcohol, Tobacco, and Firearms Form 4473 (Firearms Transaction Record) to the effect that he was the buyer of the firearm, whereas in truth and in fact, he was purchasing the firearm for another individual;

In violation of Title 18, United States Code, Section 924(a)(1)(A) and 2.

COUNT TWO

(Aiding and Abetting the Exportation of Firearms)

On or about December 11, 2019 and continuing through December 16, 2019, the exact dates being unknown to the Grand Jury, in the Southern District of Texas,

JOHN CASTELLANO
& JACINTO ZUNIGA,

the defendants herein, aiding and abetting each other and those known and unknown to the Grand Jury, did fraudulently and knowingly export and send, and attempted to export and send from the

United States; and facilitated the transportation, concealment, or sale of certain merchandise, article or object, knowing the same to be intended for exportation from the United States, to wit: two Barrett .50 caliber rifles, contrary to the laws or regulations of the United States, in that CASTELLANO AND ZUNIGA (i) obtained said firearms through the use of fraud and false statements and (ii) exported and sent, and attempted to export and send; and facilitated the transportation, concealment, or sale of said firearms from the United States to the Republic of Mexico without a license or written approval from the United States Department of State, as required by Title 22, United States Code, Section 2778(b)(2), and Title 50, United States Code, Section 4819.

All in violation of Title 18, United States Code, Section 554(a) and Section 2.,

NOTICE OF CRIMINAL FORFEITURE
(18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c))

Pursuant to Title 18 United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), the United States hereby gives notice to defendants, that upon conviction of a knowing violation of Title 18, United States Code, Sections 554, all firearms and ammunition involved in or used in any such violation is subject to forfeiture, including but not limited to:

- 1) TWO BARRETT .50 CALIBER FIREARMS

A TRUE BILL

Original Signature of file

FOREPERSON OF THE GRAND JURY

JENNIFER B. LOWERY
ACTING UNITED STATES ATTORNEY

Lisa M. Collins

LISA M. COLLINS
Assistant United States Attorney
Southern District of Texas
713-567-9700